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S/N 10/066,967

PATENTIN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	KNUDSON ET AL.	Examiner:	U. HO
Serial No.:	10/066,967	Group Art Unit:	3731
Filed:	FEBRUARY 4, 2002	Docket No.:	13033.SUS01
Title:	PHARYNGEAL WALL TREATMENT		

CERTIFICATE UNDER 37 CFR 1.6(d)

I hereby certify that this paper is being transmitted by facsimile to the U.S. Patent and Trademark Office on November 10, 2005.

By:

Name: Linda M. Beckman

TERMINAL DISCLAIMER TO OBVIATE  
A DOUBLE PATENTING REJECTION

Mail Stop AF  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, Virginia 22313-1450

Dear Sir:

Petitioner, Restore Medical, Inc., a corporation organized and existing under the laws of the State of Minnesota and having its primary place of business at 2800 Patton Road, St. Paul, Minnesota 55113, in the county of Ramsey, and the state of Minnesota represents that it is the owner of the entire right, title and interest in U.S. Patent Application Serial No. 10/066,967, filed on February 4, 2002 and entitled PHARYNGEAL WALL TREATMENT, by virtue of our Merger and Change of Name recorded at Reel 013706, Frame(s) 0220.

Petitioner, Restore Medical, Inc., hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the above-identified application, which would extend beyond the expiration date of the full statutory term of U.S. Patent Nos. 6,401,717 and 6,431,174 and hereby agrees that any patent so granted on the above-identified

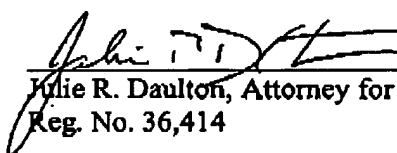
application shall be enforceable only for and during such period that the legal title to said patent shall be the same as the legal title to U.S. Patent Nos. 6,401,717 and 6,431,174, this agreement to run with any patent granted on the above-identified application and to be binding upon the grantee, its successors, or assigns.

In making the above disclaimer, Petitioner does not disclaim the terminal part of any patent granted on the above-identified application that would extend to the full statutory term as presently shortened by any terminal disclaimer of United States Patent Nos. 6,401,717 and 6,431,174, in the event that United States Patent Nos. 6,401,717 and 6,431,174 expires for failure to pay a maintenance fee, is held unenforceable, is found invalid, is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321(a), has all claims cancelled by a reexamination certification, or is otherwise terminated prior to the expiration of its full statutory term as presently shortened by any terminal disclaimer, except for the separation of legal title stated above.

The undersigned is an attorney or agent of record.

Date: 10 November 2005



  
Julie R. Daulton, Attorney for Petitioner  
Reg. No. 36,414